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STATE FOR EUR/ERA, CA AND S/CT; DOJ FOR CRIMINAL DIVISION
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SUBJECT: INAUGURAL SESSION OF THE U.S.-EU POLICY DIALOGUE
ON BORDER AND TRANSPORT SECURITY

REF: BRUSSELS 01749

[11.](#) Summary. The inaugural meeting of the new Policy Dialogue on Border and Transport Security April 26 addressed biometrics, the US-VISIT and Visa Waiver Programs, the joint initiative on lost and stolen passports, "flights of concern" and air marshals. Newly appointed Counter-terrorism coordinator De Vries reviewed the March 25 Council Declaration on Combating Terrorism, and the Irish Presidency undertook to produce a first draft of a US-EU CT Statement for the June Summit. The group agreed to meet once per EU presidency and also on an ad hoc basis if circumstances warrant. The wide-ranging joint press briefing received wide and positive media attention. End Summary.

Comment

[12.](#) Comment: The U.S. objective for this new group was to establish a forum where the issues of transport and border security could be addressed at a policy level. Current JHA discussions address these issues in an unsatisfactory way. The inaugural meeting successfully discussed a wide range of issues without getting "down in the weeds". Working-level experts from the Directorates of Transport, Markets, Justice and Home Affairs (JHA) and External Relations were present, demonstrating an EU effort to avoid "stove-piping" its handling of these issues. The principals on both sides promised to use this new mechanism to alert each other to problems or initiatives on the horizon, such as CAPPS II. The robust USG participation in this first meeting signaled to the EU that we take this new high-level dialogue seriously and want it to succeed. To reinforce this message, we suggest the next meeting be held in Washington during the Dutch Presidency. End comment.

Press Coverage

[13.](#) The media replayed the positive messages from the joint press briefing by U/S Hutchinson and Faull. Two contentious issues -- the sharing of air passenger data with third countries and sky marshals on European flights of concern -- were widely portrayed as resolved. The press gave prominent attention to Hutchinson's public flexibility on sky marshals, citing his comment that "we will not make the demand when that is not workable in an EU state" and "alternative security measures" were available. The press briefing made a strong visual statement on US-EU transport and border security cooperation to the 50 media reps in attendance.

EU Council Declaration on CT

[14.](#) EU Co-chair JHA Director General Jonathan Faull noted that the March 25 Council Declaration on Combating Terrorism, issued following the Madrid bombings, described a wide range of activities within the EU, and demonstrated that the purpose of the EU in the fight against terrorism has been reinforced at all levels. The Declaration signaled the unity of the EU in this important area. Newly-named EU Counter-terrorism Coordinator De Vries said this new dialogue was assisting the Union in pushing implementation of the Declaration's initiatives and programs both at the national level and externally with third countries. U/S Hutchinson responded that the U.S. wants to enhance its cooperation with the EU in all areas, and that this new policy forum can play a useful role in this effort. He thanked the EU for concluding the U.S.-EU Agreement on Passenger Name Records (PNR) and the recently-signed agreement on Container Security (CSI).

EU-US Summit Statement on Combating Terrorism

[15.](#) EUR PDAS Ries reported that a recent White House Summit planning meeting was impressed with the Council Declaration, commended its "holistic" approach to the issue, and noted it contained much substance for both current and potential cooperation. He said we were working on an outline for a possible statement for the June Summit keyed to the Strategic Objectives listed in the Declaration Annex and hoped to have

an outline ready to discuss at the May 6 Task Force meeting. Paul Hickey of the Irish Justice Department said the Presidency was working on its own draft statement for discussion at the May 6 Task Force meeting.

Data Protection

16. Faull announced that JHA is working on a set of data protection rules for law enforcement and security purposes which will hopefully be ready in June and proposed to the Council in the June/July timeframe. The new Parliament will have to decide whether the proposal is satisfactory. He hopes the document will be finalized by the end of the year. Asked whether the current drafting process is open for discussion, Faull responded that JHA would welcome our views when the document is presented to the Council and made public. Biometrics

17. Both sides agreed on the need to overcome technical and legal issues which affect incorporating biometrics in travel documents. Faull said that if the political process went as expected, measures would be in place by the end of 2005 to begin issuing biometric passports. The EU will add digitized images in visas by 2006 and fingerprints in visas by 2007. Faull noted there is still public relations work ahead to inform EU citizens what biometrics are, why they are necessary, and how they will be used by authorities. U/S Hutchinson welcomed the EU's decision on fingerprints and said that DHS is working hard to ensure that the expansion of US-VISIT to include VWP travelers does not delay procedures at points-of-entry.

Visa Waiver Program (VWP)

18. Faull urged the U.S. "to think again about ways to treat all EU countries the same way in the foreseeable future." He acknowledged Washington-based difficulties by noting that an expansion of the VWP list was not expected to take place immediately nor that all ten needed to gain status simultaneously. Faull said that the EU's own certification process regarding Schengen border standards would be done on a country-by-country basis. U/S Hutchinson said that the U.S. would soon begin conducting reviews of current VWP members and would be interested in seeing the results of the relevant countries' Schengen certification. He said the U.S. was also considering other ways to facilitate international travel. DAS Jacobs stated the U.S. was aware of the enormous interest in expanding VWP and noted that the requirements were set in legislation. (Note: In a separate briefing to JHA officials she described the requirements and process for adding new countries to VWP. End note.)

US-EU Initiative on Lost and Stolen Passports

19. Faull welcomed the U.S. decision to work through Interpol on sharing lost/stolen passport data. He said that the April 29 JHA Council invited the Commission to make a formal proposal. Hutchinson noted that prompt reporting on lost and stolen passports was an important criterion for VWP status.

Visa Data Exchange

110. DAS Jacobs mentioned that State is developing a pilot exchange on lookout information and said that the U.S. would submit a written proposal to the EU within a month. (Note: This could be formally presented during Commissioner Vitorino's May visit to Washington. End Note.)

Flights of Concern/Armed Law Enforcement Officers

111. U/S Hutchinson noted that the U.S. learned a great deal in December and January from the emergency measures it had to implement on certain flights from the UK and France. The U.S. worked bilaterally with the member state governments to work through the emergency. Some flights had to be cancelled. The U.S. now seeks to work with carriers. Intelligence on threats to aviation might include specific flights and times, but the U.S. also received credible threats without reference to a time. In one instance, the threat against a particular flight extended over two months, making cancellation of that particular flight impossible. There are a number of measures, short of cancellation, that can be taken to mitigate the threat on a flight of concern. U/S Hutchinson saw the assignment of armed law enforcement officers to flights of concern as a particularly helpful deterrent to air terrorism but respected the alternative views of some in Europe and did not wish to dictate a response. In light of the reservations expressed by some foreign governments, the U.S. hoped for international standards on addressing flights of concern. DHS was willing

to work with Europe on measures that could be put into place in lieu of posting law enforcement officers on flights. The topic would benefit from international discussion to develop a security approach that includes alternatives.

12. Hickey noted that member states were interested in a coordinated response in the area, and had planned to address the question in ICAO where members would discuss the issue in May. The Commission was looking at the scope of the proposed guidelines. Commission Head of Unit for Transport Security Eckard Seehofer welcomed Hutchinson's willingness to reach an international consensus and look at alternatives to posting marshals. A few member states had reservations about air marshals, but cancellation of a flight should be seen as a last resort. Hutchinson added that without International protocols, states would likely disagree on measures to be taken. He added that the December and January delays were due in large part to the need to vet passenger manifest lists, underscoring the importance of advanced passenger data systems. PNR will provide a new tool to better manage aviation security. Hickey suggested the U.S. and EU wait to see what decisions are taken in the ICAO context.

Rail Security

13. U/S Hutchinson noted that EU nations were already working to secure rail travel. In the U.S., rail and specifically mass transit security is often categorized as a local government issue, but the Department of Homeland Security has taken a number of steps to secure the sector. It was looking at screening methods for rail passengers that would necessarily differ from the current aviation model. It was also developing explosive detection technology applicable to rail. In the policy arena, DHS would develop a federal baseline for aviation security so that when threats appear, a datum line exists to build upon. U/S Hutchinson said that the U.S. would be interested in technical exchanges with the EU based on the EU's experience. Seehofer noted that a technical subgroup of the U.S.-EU Transportation Security Coordination Group (TSCG) between DG TREN and the TSA could address the mass transit/rail issue. Hutchinson agreed that this forum was the appropriate venue for discussion.

PNR

14. Commission PNR negotiator Susan Binns said that while much of the work on the PNR "adequacy finding" and "international agreement" was complete, the Commission would follow up on Secretary Ridge's letter on PNR data transfers to third countries. She added that while the Commission and Council had decided to approve the adequacy finding and international agreement despite the Parliament's request to the Court of Justice, the Commission would welcome a cautious approach by the U.S. in its public statements on the matter as there were still some minor matters that had to be attended to.

CAPPS II

15. U/S Hutchinson said that DHS would not move forward on the CAPPS II system without thorough testing, and it could not successfully test without access to a significant volume of data. DHS was currently working to secure such data.

Participants and Future Work of the Dialogue

16. DHS U/S Asa Hutchinson, DOJ Deputy A/AG Bruce Swartz and EUR PDAS Charlie Ries launched the new US-EU Policy Dialogue on Border and Transport Security on April 26. They were joined by DHS Director of Cargo and Trade Policy Elaine Dezenski, S/CT Deputy William Pope and CA/VO DAS Janice Jacobs. The EU was represented by Justice and Home Affairs (JHA) DG Jonathan Faull, External Relations Deputy DG Fernando Valenzuela, newly-named EU Counter-Terrorism Coordinator Gijsbert De Vries, Paul Hickey of the Irish Justice Department, and Council Secretariat JHA Director Gilles de Kerchove. The two sides agreed to meet once per EU presidency and also on an ad hoc basis as circumstances warrant. They also agreed that this new group would be flexible in its composition and scope, and not duplicate any existing group in the New Transatlantic Agenda (NTA).

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